

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS  
(Jointly Administered)

**Re: ECF Nos. 10102, 10613**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO HIGHWAYS &  
TRANSPORTATION AUTHORITY,

Debtor.

PROMESA  
Title III

No. 17 BK 3567-LTS

**Re: ECF Nos. 673, 679**

**AAFAF'S LIMITED JOINDER TO OPPOSITION OF FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO TO URGENT MOTION OF ASSURED  
GUARANTY CORP., ASSURED GUARANTY MUNICIPAL CORP., AMBAC  
ASSURANCE CORPORATION, NATIONAL PUBLIC FINANCE GUARANTEE  
CORPORATION, AND FINANCIAL GUARANTEE INSURANCE COMPANY TO  
ADJOURN HEARING ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY  
AND EXTEND DEADLINE FOR REPLIES IN SUPPORT OF MOTIONS FOR RELIEF  
FROM AUTOMATIC STAY**

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Court Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), as fiscal agent for the Commonwealth of Puerto Rico (the “Commonwealth”), the Puerto Rico Convention Center District Authority (“CCDA”), the Puerto Rico Highways & Transportation Authority (“HTA”), and the Puerto Rico Infrastructure Financing Authority (“PRIFA”), submits this limited joinder to the Opposition filed by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) to the *Urgent Motion of Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, National Public Finance Guarantee Corporation and Financial Guaranty Insurance Company to Adjourn Hearing on Motions for Relief From the Automatic Stay and Extend Deadlines for Replies in Support of Motions for Relief From the Automatic Stay*<sup>2</sup> [ECF No. 10841] (the “Extension Motion”) [ECF No. 10958] (the “Extension Opposition”).<sup>3</sup> Solely to the extent set forth herein, AAFAF hereby joins in the Extension Opposition:

1. AAFAF joins the Oversight Board’s arguments in section I, except with respect to preemption, and sections II-V of the Extension Opposition.

2. AAFAF agrees that an adjournment of the March 5, 2020 preliminary hearing is unwarranted and would prejudice Puerto Rico, but it does not agree the prejudice flows from any impact delay would have on a proposed schedule to consider approval of the Amended Disclosure Statement. AAFAF reserves all rights to object to the proposed schedule to consider of the Amended Disclosure Statement.

3. An expeditious resolution of the threshold legal issues regarding Movants’ standing and the scope of their purported security interests is important because it will resolve

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<sup>2</sup> All ECF numbers refer to the docket in Case No. 17-3282 unless otherwise stated.

<sup>3</sup> Capitalized terms not defined herein shall have meanings ascribed to them in the Extension Opposition.

key issues regarding the finances of the Commonwealth and its public corporations and the relative rights of creditors.

4. The discovery Movants identify as justification for delaying the preliminary hearing is wholly unrelated to the questions before the Court. As this Court has already held, extrinsic evidence regarding the Government's intent or understanding has no real relevance to the questions of whether bondholders have a security interest. *See Mem. Order Granting Respondents' Urgent Mot. in Limine to Exclude Evidence and Argument Regarding an Alleged April 27, 2016 Meeting with Movants' Representatives*, No. 17-3566, ECF No. 544 at 5 (D.P.R. Jun. 5, 2019) (the "ERS Order") (finding extrinsic evidence to be "at best, of marginal relevance to the central question to be considered at the Stay Relief hearing: whether bondholders have a security interest in employer payments under the PayGo system established by the Pension Reform Legislation."). Determining the nature and scope of the Bondholders' purported liens is a legal question that will be resolved based on the relevant statutes and bond resolutions. *Id.* at 6 (scope of ERS bondholders' security interest "must be determined based on the legal effects of the Pension Reform Legislation rather than the parties' alleged intentions as to what those effects should be.").

5. As in ERS, the probative value of the additional evidence Movants seek to discover here is "substantially outweighed by the risk of undue delay and wasted time associated with additional preparation for the Stay Relief Hearing and determinations related to the admissibility and weight of the evidence." *Id.* There is no reason to adjourn the March 5, 2020 hearing merely to allow Movants the opportunity to "add work and expense in preparation of the Stay Relief Hearing and prolong the Stay Relief Hearing itself by requiring unwarranted evaluation of subsidiary issues." *Id.* at 7.

6. Accordingly, the Extension Motion should be denied as “contrary to the principles of judicial economy and prudent stewardship of debtor resources,” (*id.*) as well as for the reasons set forth in the arguments in which AAFAF has joined.

#### **RESERVATION OF RIGHTS**

7. In the Extension Opposition, the Oversight Board argues that the Extension Motion should be denied in part because the PROMESA preempts pre-petition appropriation statutes as a matter of law, and therefore no discovery is required to address this issue. (*See* Extension Opposition ¶¶ 8, 18, 20.) While AAFAF agrees that fact discovery would not be appropriate to address a preemption argument, AAFAF believes the Court need not decide this preemption argument at this time, and thus requests that the Court not address it. AAFAF reiterates its reservation of all rights with respect to preemption under Titles I and II of PROMESA.

*[Remainder of page intentionally left blank.]*

Dated: February 13, 2020  
San Juan, Puerto Rico

Respectfully submitted,

/s/ Peter Friedman

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